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A.G. CONTRACT NO. KR-88-1732-TRD

ECS FILE: IGA-88-58

PROJECT: B-045-1-307PE, -507C

SECTION: Elliot Road - Baseline Road

AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
REGESTER/PST ENTERPRISES

THIS AGREEMENT entered into this 28<sup>th</sup> day of October, 1988, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called "State", and REGESTER/PST ENTERPRISES.

WHEREAS, State is empowered by Sections 28-108 and 28-1865 Arizona Revised Statutes to enter into is agreement and has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement, and the Director of the Arizona Department of Transportation has delegated to the undersigned the authority to execute same on behalf of State; and

WHEREAS, Regester/PST Enterprises desires to enter into this agreement and has, by its letter of authority, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of Regester/PST Enterprises; and

WHEREAS, Regester/PST Enterprises desires State to modify improvements on State Route 87 from Guadalupe Road to approximately 1,000 feet south of the centerline of Guadalupe Road to be consistent with planned development of property located in the Southwest quadrant of the intersection of Guadalupe Road with State Route 87; said modification to include relocation of curb and gutter to provide for a deceleration lane, installation of sidewalk and driveway entrances, and modification of drainage improvements; and

WHEREAS, State agrees to process a change order with the construction contractor for the Elliot Road - Baseline Road project to include said improvements desired by Regester/PST Enterprises; and

WHEREAS, the increased cost to construct said improvements is estimated to be SIX THOUSAND FIVE HUNDRED AND TWENTY-FIVE DOLLARS (\$6,525) as detailed on Exhibit A attached hereto and made a part hereof and Regester/PST Enterprises agrees to bear the total cost for design and the increased cost for construction of said improvements, including all costs related to construction delays or claims for extra compensation made by the contractor relative to said improvements.

THEREFORE, the parties hereto agree as follows:

REGESTER/PST ENTERPRISES SHALL:

1. Prepare plans for modification of roadway improvements on the west side of U.S. 87 from Guadalupe Road to 1,000 feet south of the centerline of Guadalupe Road to include a deceleration lane, curb and gutter, sidewalks, driveway entrances and necessary drainage modifications.

2. Provide plans for said improvements to the State for review and approval.

3. Provide to State drainage easements as necessary for construction of said improvements at no cost to State.

4. Deposit with State cash in the amount of SIX THOUSAND FIVE HUNDRED AND TWENTY-FIVE DOLLARS (\$6,525); said amount equal to the estimated increased cost for said improvements. Said cash deposit shall be made prior to State submitting a change order for said improvements to the construction contractor for Elliot Road - Baseline Road.

5. Within 20 days of receipt of bill from State for any additional costs not covered by cash deposit defined in item 4 above, remit payment in full to State.

6. Agrees to defend, indemnify and hold harmless the State, its agents, officials, and employees, from and against any and all claims, actions, demands, liability, damage, cost and expense of whatsoever character, whether direct or indirect, or consequential, including loss or damage to property for personal injury or death to any or all persons caused by or attributable to the negligence or fault of Regester/PST, its respective employees, agents, or contractors.

STATE SHALL:

1. Review and approve plans prepared by Regester/PST Enterprises for modification of roadway improvements on the west side of U.S. 87 from Guadalupe Road to 1,000 feet south of the centerline of Guadalupe Road.

2. Upon receipt of cash deposit from Regester/PST Enterprises negotiate a change order with the construction contractor for Elliot Road - Baseline Road project to provide for modification of improvements as desired by Regester/PST Enterprises.

3. Upon completion of construction for said improvements, submit a detailed breakdown of construction change order costs to Regester/PST Enterprises and a bill for any costs in excess of cash deposit made by Regester/PST Enterprises, including all costs related to construction delays or claims for extra compensation made by the contractor relative

to said improvements. In the event that actual change order costs do not exceed the amount of cash deposit made by Regester/PST Enterprises, said submittal to include a check for the difference in actual cost and said cash deposit.

THIS AGREEMENT shall become effective upon execution by both parties hereto.

THIS AGREEMENT shall remain in full force and effect until completion of said construction project as aforesaid.

Both parties hereto acknowledge that this agreement is subject to cancellation by the Governor pursuant to the provisions of Arizona Revised Statutes Section 38-511.

Both parties further recognize that the provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

In the event any controversy arises out of the Agreement and relating to items or provisions of the Agreement, both parties hereto mutually agree as follows:

a) Prior to executing a contract change order for the construction of said improvements, in the event there are disputes between State and Regester/PST Enterprises pertaining to the plans and specifications, the parties agree to select an independent third party as arbitrator with regard to the dispute and the decision of such arbitrator shall be deemed binding on the parties;

b) In the event of a dispute between State and Regester/PST Enterprises subsequent to State executing a contract change order for the construction of said improvements, an independent third party shall be appointed by the parties as arbitrator with regard to the dispute and the decision of such arbitrator shall be deemed binding on the parties; and

c) In the event the parties cannot agree upon the selection of an independent third party arbitrator within thirty (30) days, the matter shall be referred to the American Arbitration Association, Construction Arbitration Division, for determination. A determination by the American Arbitration Association shall be binding upon the parties. The parties agree that a hearing will be requested within thirty (30) days from the demand for the American Arbitration Association arbitration; and

d) The parties agree that all cost incurred relating to the independent third party arbitrator and of the American Arbitration Association, Construction Arbitration Division, shall be borne equally by the two parties.

Attached hereto and incorporated herein by reference is a copy of State's Resolution authorizing entry into this agreement, and a copy of Register/PST Enterprises' letter of authority signed by its designated representatives authorizing entry into this agreement and stating that said agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

REGISTER/PST ENTERPRISES

STATE OF ARIZONA  
DEPARTMENT OF TRANSPORTATION

BY: 

TITLE: Partner

BY: 

Thomas A. Bryant, II  
State Engineer

ATTEST: 

EXHIBIT A  
to  
AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
REGESTER/PST ENTERPRISES

## BIDDING SCHEDULE ADDITIONS

ITEM NUMBER	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
2030301	Roadway Excavation	C.Y.	470	2.50	\$ 1,175.00
3030022	Aggregate Base, Class 2	C.Y.	66	12.00	792.00
3030025	Aggregate Subbase, Class 5	C.Y.	99	10.00	990.00
4040044	Asphalt Cement (AC-40) (For 1/2" Mix)	Ton	3	125.00	375.00
4040046	Asphalt Cement (AC-40) (For 3/4" Mix)	Ton	10	125.00	1,250.00
4040163	Blotter Material	Ton	1	10.00	10.00
4060004	Asphaltic Concrete (1/2" Mix)	Ton	66	13.50	891.00
4060006	Asphaltic Concrete (3/4" Mix)	Ton	209	13.00	2,717.00
4060024	Mineral Admixture (For 1/2" Mix)	Ton	1	1.00	1.00
4060026	Mineral Admixture (For 3/4" Mix)	Ton	4	1.00	4.00
7040003	Pavement Marking (White Hot- Sprayed Thermoplastic) (0.60")	L.F.	1,095	0.20	219.00
7050023	Pavement Marking, Preformed, Type I, Single Arrow	Each	3	110.00	330.00
7050026	Pavement Marking, Preformed, Type I, Legend	Each	2	210.00	420.00
7310620	Mast Arm (55') (Tapered)	Each	1	1,500.00	* 1,500.00
7320030	Electrical Conduit (1") (PVC)	L.F.	24	2.25	54.00
7320070	Electrical Conduit (3") (PVC)	L.F.	124	4.50	558.00

ITEM NUMBER	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
7320410	Pull box (No. 5)	Each	1	110.00	\$ 110.00
7330030	Traffic Signal Face (Type C)	Each	1	300.00	* 300.00
7330220	Pedestrian Push Button	Each	2	175.00	350.00
7330340	Traffic Signal Mounting Assembly (Type V)	Each	1	150.00	* 150.00
7330360	Traffic Signal Mounting Assembly (Type VII)	Each	1	400.00	* 400.00
9080051	Concrete Curb and Gutter (C-05.10)	L.F.	10	6.00	60.00
9080133	Concrete Valley Gutter and Apron	S.F.	2,181	3.00	6,543.00
9080301	Concrete Driveway (C-05.20)	S.F.	1,200	2.00	<u>2,400.00</u>
	Total Additions				\$ 21,599.00

\* Based on estimated bid price

#### BIDDING SCHEDULE DELETIONS

ITEM NUMBER	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
2030401	Drainage Excavation	C.Y.	1,374	2.25	\$ 3,091.50
7310600	Mast Arm (45 Ft.) (Tapered)	Each	1	1,450.00	1,450.00
7320050	Electrical Conduit (2") (PVC)	L.F.	17	5.00	85.00
8030121	Rock Mulch (3" - 6" River Rock)	C.Y.	603	14.00	8,442.00
9080201	Concrete Sidewalk (C-05.20)	S.F.	870	1.50	1,305.00
9080512	Scupper (4' to 7')	Each	1	700.00	<u>700.00</u>
	Total Deletions				\$ 15,073.50

Total Estimated Costs Assigned to Register/PST

\$ 21,599 less \$ 15,073.50

\$ 6,525.50


ECS FILE: IGA-88-58

PROJECT: B-045-1-307PE, -507C  
SECTION: Elliot Road - Baseline  
Road

RESOLUTION

BE IT RESOLVED on this 8th day of August, 1988, that I, CHARLES L. MILLER, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona that the DEPARTMENT OF TRANSPORTATION, acting by and through the Highways Division, enter into an Agreement with Regester/PST Enterprises for modification of roadway improvements on the west side of U.S. 87 from Guadalupe Road to approximately 1,000 feet south of the centerline of Guadalupe Road.

THEREFORE, authorization is hereby given to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.

  
\_\_\_\_\_  
Charles L. Miller, Director  
Arizona Department of Transportation

REGESTER/PST ENTERPRISES  
PARTNERSHIP AUTHORIZATION

GRANTED, by consent of all the parties of REGESTER/  
PST ENTERPRISES, an Arizona general partnership, that John W.  
Perkinson is hereby authorized to execute any and all  
documents necessary to effect the Drainage Easement/Purchase  
Agreement/Entry Agreement with the State of Arizona through  
it's Department of Transportation.

IN WITNESS WHEREOF, the parties hereto have set  
their hand this 20th day of October, 1988.

REGESTER

By: Charles L. Regester

PST HOLDINGS

By: John W. Perkinson

9/26/88

Talked with John Perkinson and pointed out the date error  
above (should be September 20, 1988). He directed me to  
change as necessary. If ADOT requires same, he will obtain  
replacement from Mr. Regester.

Joanne Laarsma